

Date: Tue, 10 May 94 04:30:07 PDT
From: Ham-Policy Mailing List and Newsgroup <ham-policy@ucsd.edu>
Errors-To: Ham-Policy-Errors@UCSD.Edu
Reply-To: Ham-Policy@UCSD.Edu
Precedence: Bulk
Subject: Ham-Policy Digest V94 #198
To: Ham-Policy

Ham-Policy Digest Tue, 10 May 94 Volume 94 : Issue 198

Today's Topics:

 Antenna CC&R restrictions -- let's change the law
 FCC computers
 SBS club call? (was Re: Upgraded license expiration question)

Send Replies or notes for publication to: <Ham-Policy@UCSD.Edu>
Send subscription requests to: <Ham-Policy-REQUEST@UCSD.Edu>
Problems you can't solve otherwise to brian@ucsd.edu.

Archives of past issues of the Ham-Policy Digest are available
(by FTP only) from UCSD.Edu in directory "mailarchives/ham-policy".

We trust that readers are intelligent enough to realize that all text
herein consists of personal comments and does not represent the official
policies or positions of any party. Your mileage may vary. So there.

Date: Mon, 9 May 1994 15:09:54 GMT
From: ihnp4.ucsd.edu!pacbell.com!att-out!walter!dancer.cc.bellcore.com!not-for-mail@network.ucsd.edu
Subject: Antenna CC&R restrictions -- let's change the law
To: ham-policy@ucsd.edu

I offer my comments below, not as a criticism, but to merely
point out some clarifications of several points.

In article <CpHMBz.263@cbnewst.cb.att.com>,
WB9VGJ <waco@cbnewst.cb.att.com> wrote:
>Perhaps Congress can address the problem of CC&R (Covenants, Conditions
>& Restrictions) that appear in deeds and homeowner association documents
>that prohibit outside antennas which negatively impact amateur radio
>operators. As you know, PRB-1 specifically exempted these saying they
>are part of a contract between two private parties. I maintain this is
>not true as a valid contract has to meet several criteria, one being that
>both parties must be able to negotiate the terms and agree to them. This
>is not the case with CC&Rs; there is no negotiation between seller and
>buyer.

That's an overly simplified view of contract law. You don't "negotiate" the price of all the items offered for sale in most any store, yet, when you make a purchase you surely have completed a contract of sale.

Nothing in contract law mandates that the entity (person, store or seller of property) must negotiate all elements of the contract. The seller, especially the first sale of a property which is created by subdivision with a new set of CC&Rs) can simply stand by his (the sellers) position that if you don't want the property with CC&Rs then you don't buy. That may sound rather limiting (in the mind of a potential buyer), but that's simply the way things are.

>When I wrote my U.S. representative, J. Dennis Hastert, to thank him
>for his co-sponsorship of H.R. 2623, a bill to limit the liability of
>hams who participate in volunteer programs for the benefit of the Amateur
>Radio Volunteer Services Act, I suggested that Congress consider legislation
>to preempt CC&Rs as they pertain to amateur radio antennas. The FCC can
>only write regulations to enforce provisions of the Communications Act and
>other legislation regarding radio operation that are passed by Congress.
>

>Here is an excerpt of the reply dated 4/25/94 I got from Mr. Hastert:

Letter reply deleted for brevity....

>So, his letter indicates to me that he is open to looking at the issue
>of CC&Rs. Also, it turns out, he is a member of the proper subcommittee
>to address this issue. Therefore, I would urge anyone who has comments
>on the desirability of a CC&R preemption to contact him in his capacity
>as a subcommittee member. Anyone who has factual information and/or
>personal experiences with problems caused by CC&R restrictions, please
>pass along that information to him. I did mention in my letter that it
>often costs amateurs thousands of dollars and ties up courts with law suits
>in order to be able to erect and maintain antenna structures. With most
>new subdivisions today having CC&Rs prohibiting antennas, this is an issue
>I think Congress needs to address.

Don't expect much help from the feds because they are always reluctant to stray into state issues. Contract law has a long standing history of being a state by state approach and (IMHO) not generally changed by action(s) at the federal level.

>Some states are passing laws preempting municipalities from enforcing
>restrictions stricter than PRB-1, but I am not sure how many are preempting
>CC&Rs. They are quite different from local ordinances as they are an
>encumbrance upon a piece of real estate, like a utility easement or mortgage,
>rather than being just a municipal ordinance.

For the same reasons above, don't hold much optimism that states will force a change on any "existing" CC&Rs. Perhaps, as apparently is being pushed in Georgia, state legislation against future CC&R prohibitions against amateur radio (and/or antennas) will prevail. Time will tell, BUT... be assured it won't happen unless the amateur community pushes hard for it.

Hope this doesn't appear to negative, but I did want to help direct attention/effort to where it'll do the most good.

Standard Disclaimer- Any opinions, etc. are mine and NOT my employer's.

Bill Sohl (K2UNK) BELLCORE (Bell Communications Research, Inc.)
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Date: Thu, 5 May 1994 03:13:49 GMT
From: ihnp4.ucsd.edu!library.ucla.edu!europa.eng.gtefsd.com!darwin.sura.net!
perot.mtsu.edu!raider!theporch!jackatak!root@network.ucsd.edu
Subject: FCC computers
To: ham-policy@ucsd.edu

cravitma@cps.msu.edu (Matthew B Cravit) writes:

> On 25 Apr 1994 16:10:44 GMT, strange alien beings caused Bill Gunshannon (bil
> > In article <1994Apr25.141334.26398@mixcom.mixcom.com>, kevin jessup <kevin.
> > |> BTW, what kind of computer are they running over in Gettysburg?

>

> > Last time I heard (quite a while ago) it was a SPERRY 1100 running EXEC-8.
> > A PDP-11/23 running RSX11 (or RT11 for that matter) would run circles around
> > it.

That comment isn't really worthy of a response, since all the
1100/2200 systems I worked on would easily BURY an MVS box...but how
hard would that be? ;^)

> This Sperry is quite possibly still what is in use.

Actually, it is NOT a Sperry or Unisys... it is a truly ancient
Honeywell 200/2000 machine of late 1960s vintage that is programmed in
EasyCoder, an AutoCoder (you gotta be OLD to know what that is! ;^)
type language... economics is why they still are trying to run it...
Federal administrative systems are among the very LAST to be updated.
Look at the mess the Social Security Admin was in not long ago...and
the FCC administrative computing is even less visible... save to hams
on on the UseNet groups! ;^)

> because the FCC is junking their Sperry and moving to a PC LAN this
> month (supposedly electronic filing by the VECs will then be possible

Geez... PC LAN... WOW.... NOT!!!! Too bad they couldn't get a real computer that supported their needs easily and would have some growth to it... Bad Boy Bill Gates didn't write DOS for future...just lots of silly people gave him money to keep it obscure.

73.

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+-----+
| Jack GF Hill          |Voice: (615) 459-2636 -           Ham Call: W4PPT |
| P. O. Box 1685        |Modem: (615) 377-5980 -   Bicycling and SCUBA Diving |
| Brentwood, TN 37024  |Fax:   (615) 459-0038 -           Life Member - ARRL |
| root@jackatak.raider.net - "Plus ca change, plus c'est la meme chose" |
+-----+
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From: [ihnp4.ucsd.edu!library.ucla.edu!europa.eng.gtefsd.com!darwin.sura.net!
perot.mtsu.edu!raider!theporch!jackatak!root@network.ucsd.edu](mailto:ihnp4.ucsd.edu!library.ucla.edu!europa.eng.gtefsd.com!darwin.sura.net!perot.mtsu.edu!raider!theporch!jackatak!root@network.ucsd.edu)
Subject: SBS club call? (was Re: Upgraded license expiration question
To: ham-policy@ucsd.edu

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> In article <2pguq9$igr@abyss.West.Sun.COM>, myers@spot.West.Sun.COM (Dana Mye
> >In article <1994Apr23.202817.15224@gsm001.mendelson.com> gsm1rn@mendelson.co
> >>
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This same thing happened to a chap in Atlanta early in the callsign setup. He was issued KB4FU...used it and never thought about it until someone in the mall parking lot asked his wife about the "obsenity" on her license tag... suddenly, Tom got all bent out of shape, and in his very finest straight-laced penmanship, wrote out a new 610 and a letter explaining the situation.

K B 4 TOUGH SHIT!!!!

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> I know a fellow named Galen who's cal is KB5FU.  He has fun with pile-ups
> having to yell F-U all the time!!
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his own illegal linear for CB use, and no doubt some have. But the responsible person in this case is the builder, not the store which sold him the parts. Can the police hold a store responsible for selling dynamite to a licensed contractor who then proceeds to build a pipe bomb and blow up his competitor's house? I don't think so.

My main concern with the salesman or dealer selling the radio was that they had a moral responsibility to inform the buyer "You know, you need a license to operate this thing." The dealer doesn't have to do this unless there is a law which requires it, and there may be no such law anywhere. But I see nothing wrong with a law requiring a two-way radio dealer to (a) inform the buyer, perhaps having him sign a disclaimer stating that he has been informed that a license is required (which protects the dealer against prosecution and places the burden squarely on the buyer, and (b) provide the buyer with the necessary forms to obtain a license. In fact, were I a dealer, I would be inclined to make the forms available and require the buyer to sign a disclaimer JUST TO PROTECT MY OWN BUTT! Nothing works better as evidence in your favor like a signed piece of paper (and I've sat on a number of juries where such a piece of paper was the critical piece of evidence).

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    ** G **
    * *   * *   We meet upon the level, and we part upon the square
    *   *   *
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End of Ham-Policy Digest V94 #198
